

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Telephone Number Portability

North Central Telephone Cooperative, Inc.
Petition for Waiver of Section 52.23(c)
of the Commission's Rules

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CC Docket No. 95-116

To: Chief, Wireline Competition Bureau

PETITION FOR WAIVER

Pursuant to Sections 1.3, 1.925 and 52.23(e) of the Commission's Rules,¹ North Central Telephone Cooperative, Inc. (the "Company") hereby requests waiver or temporary extension of the requirement for local exchange carriers ("LECs") to implement "number portability,"² within six months after a request by a Commercial Mobile Radio Service ("CMRS") provider, as set forth in Section 52.23(c) of the Commission's Rules, to the extent necessary.³ The current uncertainty regarding interpretation of porting rules, as well as implementation conundrums, requires the Company, out of abundance of caution, to seek the instant relief on this last day for

¹ 47 C.F.R. §§ 1.3, 1.925 and 52.23(e).

² The Communications Act of 1934, as amended (the "Act") defines number portability as "the ability of users of telecommunication services to retain, *at the same location*, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another." 47 U.S.C. §153 (30) (emphasis added). *See also* 47 C.F.R. §52.21(p) (FCC quoting the Act's "service provider portability" definition). As explained herein, it is unclear whether the requests received from the CMRS providers comply with these applicable definitions.

³ 47 C.F.R. § 52.23(c). The Company received two requests to implement number portability by November 24, 2003 (the "WLNP Deadline").

such a request pursuant to the Commission's Rules.⁴ As demonstrated herein, waiver is warranted because the application of the Rule to the Company would be unduly burdensome and contrary to the public interest. To further the public interest, the Company proposes a specific deployment schedule based upon representations made by its switch vendor and commits to submitting quarterly reports to inform the Commission of its progress toward compliance.

I. Background

A. The Company is a Small Rural Cooperative

The Company is a rural telephone company as defined by the Act⁵ and is organized as a cooperative.⁶ The Company has less than 17,000 access lines. Accordingly, it satisfies the criteria set forth in Section 251(f)(2), which provides in pertinent part, that LECs "with fewer than two percent of the Nation's subscriber lines installed in the aggregate nationwide may petition a state commission for a suspension or modification"⁷ of the number portability

⁴ As explained herein, the Company seeks a one-year extension following clarification of its obligations and confirmation that the requests are valid.

⁵ 47 U.S.C. §153(37). The Company provides telephone exchange service, including exchange access, to fewer than 50,000 access lines and serves a study area of fewer than 100,000 access lines. See 47 U.S.C. §§153(37)(B) and (C).

⁶ See, *Amendment of Part 1 of the Commission's Rules – Competitive Bidding Procedures: Second Order on Reconsideration of the third Report and Order and Order on Reconsideration of the Fifth Report and Order*, WT Docket No. 97-82, FCC 03-98 (rel. May 8, 2003), Joint Separate Statement of Chairman Michael K. Powell and Commissioner Jonathan S. Adelstein ("Rural Telephone Cooperatives are a vital and distinctive link in achieving our telecommunications policy goals in rural America").

⁷ 47 U.S.C. §251(f)(2).

requirements.⁸ As of December 2002, approximately 188 million local telephone lines were in service nationwide.⁹ In the aggregate, the Company provides services to 16,532 access lines, far below the 2% threshold of 3.76 million access lines.¹⁰

B. The Company's Service Area and Operations Support the Requested Relief

The Company provides local exchange and exchange access services with the following counties in Tennessee: Macon, portions of Trousdale, portions of Sumner, portions of Clay and portions of Smith.¹¹ All of this service territory encompasses areas that are sparsely populated. As illustrated in Exhibit 1, the largest town in this service area has a population of approximately 3,885. The Company has 10 rate centers in its area. Only Sumner County is within the largest 100 metropolitan statistical areas ("MSAs"); however, the Company serves only the sparsely populated areas of this county.

C. Technical Hurdles

The requests from the CMRS providers constitute the Company's first experience with number porting. Implementing number portability is technically complicated, and requires ensuring that the proper arrangements are in place for handling end user traffic. As demonstrated

⁸ Section 251(b)(2) states that "The duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission." 47 U.S.C. §251(b)(2).

⁹ See "Federal Communications Commission Releases Study on Telephone Trends," FCC News Release (rel. Aug. 7, 2003).

¹⁰ The Company provides service in the state of Tennessee, a state that does not regulate LECs. Accordingly, the Company's only alternative for relief is to file this instant waiver petition with the Commission. The Company also provides service in the state of Kentucky. The requests, however, do not seek implementation of number portability for any of the Company's Kentucky exchanges.

¹¹ See company-specific information provided in Exhibit 1.

herein, porting numbers to wireless providers increases this complexity.

As reflected by the information provided in attached Exhibit 1, the Company will experience significant expense, and require significantly more than six months, to equip its switch with porting capability.¹² As demonstrated herein, however, installation of number portability capability only partially resolves the issue – unresolved implementation problems render the provision of local number portability unduly economically burdensome and technically infeasible.

The Company has received requests from Sprint PCS and Verizon Wireless detailed on Exhibit 1 to implement portability by the WLNP Deadline. The Company, through counsel, responded to the CMRS providers, challenging the validity of their request for the following reasons:

- (1) The request seeks to obligate a local exchange carrier to port a wireline number to a wireless carrier that has the capability to allow the mobile subscriber to use the number outside the boundaries of the original rate center. Such an obligation would be considered “location” or “geographic” portability, an obligation that the FCC has already determined is not required by statute and would be contrary to the public interest.¹³ The Company requested the CMRS providers to provide any

¹² See Exhibit 1 noting that the Company’s estimates that its switch vendor, Nortel, would charge approximately \$50,000 for the necessary software to comply with the number portability requests and that it would take a minimum of six months to install and test the required upgrades.

¹³ The FCC has distinguished “service provider portability” (*see* n.2, *supra*) from “geographic location portability,” the latter of which is a much different form of portability that the FCC has determined is not required by statute. “Geographic location portability” is defined as “the ability of users of telecommunications services to retain

additional facts to demonstrate that the request is not for geographic location portability.

- (2) The request failed to demonstrate compliance with the FCC Rules that number portability is required only if requested by “another telecommunications carrier in areas in which that telecommunications carrier is operating or plans to operate.”¹⁴

In its response, the Company sought assurance that the CMRS providers have viable service in the Company’s service territory or plan to provide such service. Furthermore, the Company noted that there is no local interconnection in place between it and the CMRS providers, demonstrating the absence of the CMRS providers’ local presence and any indication of their “plans to operate” within the area.

To date, the CMRS providers either have not responded or have provided non-responsive answers to these challenges.

II. Waiver is Warranted

The standard for grant of a waiver of the Commission's Rules is that “in view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no

existing telecommunications numbers without impairment of quality, reliability, or convenience *when moving from one physical location to another.*” 47 C.F.R. §52.21(i)(emphasis added).

¹⁴ 47 C.F.R. §52.23(c).

reasonable alternative.”¹⁵ Waiver is appropriate “if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest.”¹⁶ Additionally, requests for waiver of the FCC’s number portability rules must demonstrate the following:

- (1) The facts that demonstrate why the carrier is unable to meet the deadline;
- (2) A detailed explanation of the activities that the carrier has undertaken to meet the implementation schedule prior to requesting an extension of time;
- (3) An identification of the particular switches for which the extension is requested;
- (4) The time within which the carrier will complete deployment in the affected switches; and
- (5) A proposed schedule with milestones for meeting the deployment date.¹⁷

The Company’s waiver request meets these standards.

A. Application of the Rule to the Company Would be Unduly Burdensome and Contrary to the Public Interest

Application of the requirement to implement number portability by the WLNP Deadline would impose a requirement that is unduly economically burdensome. As a small and rural telephone company, the Company has a limited customer base over which to spread its costs.¹⁸ As noted herein, these costs are significant. The decision to incur them becomes even more

¹⁵ 47 C.F.R. § 1.925(b)(3)(ii).

¹⁶ *Northeast Cellular Telephone v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969)).

¹⁷ 47 C.F.R. § 52.23(e).

¹⁸ *See In the Matter of Numbering Resource Optimization; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996: Third Report and Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200*, 17 FCC Rcd 252, 262 (2001) (“*Numbering Resource Decision*”) (The per line cost of implementing the technology for number pooling, which is the same technology that is used to implement number portability would “be significantly higher for small and rural carriers operating outside of the largest 100 MSAs than for carriers operating inside urban and metropolitan areas because of these carriers’ limited customer bases”).

difficult to justify when weighed against the few, if any, public benefits that may be gained by attempting to implement the capability to port numbers to the CMRS provider. The same balancing of competing interests was addressed previously and the decision was made that smaller LECs, like the Company need not expend scarce resources.

When the FCC initially promulgated its number portability rules, it agreed with commenters that requiring rural LECs to provide number portability where no competitor has requested such function would “burden rural LECs significantly without benefiting the public by increasing competition.”¹⁹ Accordingly, the Commission determined to limit deployment of portability “to those switches for which a competitor has expressed interest in deployment.”²⁰ The Commission further found that if competition is not imminent in the areas covered by rural/smaller LEC switches, “then the rural or smaller LEC will not receive requests from competing carriers to implement portability, and thus will not need to expend its resources, until competition actually develops in its service area.”²¹

To the Company’s knowledge, however, the requesting CMRS providers are not providing a competitive alternative to the local exchange service offered by the Company. The mobile service being provided is, at best, a complementary service since the Company is not

¹⁹ *In the Matter of Telephone Number Portability: First Memorandum Opinion and Order on Reconsideration*, 12 FCC Rcd 7236, 7298-99, 7301 (1997) (“*Number Portability Reconsideration*”).

²⁰ *Id.* at 7301; *see also* 47 C.F.R. §52.23(c) (“Beginning January 1, 1999, all LECs must make a long-term database method for number portability available within six months after a specific request by another telecommunications carrier in areas in which that telecommunications carrier is operating or plans to operate”).

²¹ *Number Portability Reconsideration*, 12 FCC Rcd at 7302.

aware of any customer eliminating its wireline service based on the wireless service that the CMRS providers offer. Even assuming the CMRS providers were able to demonstrate that they cover the Company's service territory, there is no indication that any of the Company's subscribers have an interest in substituting their wireline phone, particularly where a wireless phone may very well have intermittent service in rural areas. Accordingly, if required to implement intermodal number portability, the Company would be severely economically burdened, and the public would recognize few, if any, benefits.

Second, to require the Company to implement number portability by the WLNP Deadline would impose a requirement that is technically infeasible. As attested to in Exhibit 1, the Company estimates that it will take a minimum of six months from the initial order date to install and test the required hardware and software upgrades. Even if installation of the necessary equipment to achieve portability could be accomplished by the WLNP Deadline, implementation of that capability does not, absent the establishment of terms and conditions with the CMRS provider, address all of the potential technical or implementation issues. The resolution of these issues, however, can be established only through the process of negotiating an interconnection agreement, a process that the CMRS provider has not sought. Furthermore, the uncertainty surrounding the undecided implementation issues still pending before the FCC exacerbates an already complicated process.²²

²² Wireless Telecommunications Bureau Chief, John Muleta, has stated his intention to address pending issues regarding number portability "well in advance of the Nov. 24 LNP deadline." "FCC Officials Press Wireless Firms to Move Ahead on LNP Deployment," TR Daily, Sept. 8, 2003 ed. As of the date of this filing, however, matters regarding intermodal porting are still pending before the Commission. See, e.g., *Comment Sought on CTIA Petition for Declaratory Ruling that Wireline Carriers Must Provide Portability to Wireless Carriers Operating*

Third, imposition of the WLNP Deadline would be contrary to the public interest in that it would have a significant adverse economic impact on users of telecommunications services generally. As demonstrated herein, the costs of implementing the number portability are significant, not only with respect to the deployment of the hardware and software necessary to achieve porting capability, but also with respect to ongoing data costs and administration processes, and the establishment of the proper arrangements among the affected carriers.

Initial and on-going costs incurred to satisfy the request of the CMRS provider ultimately are recovered through rates paid by the Company's customers. Compounding the adverse effect of this result is the fact that most of these customers will receive no benefit from the provision of intermodal number portability. The Company has yet to receive even an inquiry, let alone a request from a customer, seeking to disconnect his/her wireline service and have his/her number ported to a CMRS provider. In any event, the Company anticipates that the ultimate number of subscribers wishing to port to wireless carriers would be very limited. Accordingly, all of the subscribers of the Company would be adversely impacted by an increase in rates in order to accommodate the request of the CMRS provider.²³

B. Grant of This Waiver Serves the Public Interest

By granting the requested temporary extension, the Commission would avoid the

Within Their Service Areas, Public Notice, CC Docket No. 95-116, DA 03-211 (rel. January 27, 2003) (FCC seeking comment on CTIA's petition seeking a ruling that LECs have an obligation to port their customer's telephone numbers to CMRS providers whose service area overlaps the LEC's rate centers).

²³ See also *Numbering Resource Decision*, 17 FCC Rcd at 262. (Imposing the cost of implementing the technology for number pooling, which is the same technology that is used to implement number portability on smaller and rural carriers "may delay efforts to bring advanced services to rural subscribers").

potential waste of resources or, at the very least, diminish the waste that would occur in the absence of the FCC clarifying issues related to wireline-to-wireless number portability. Until the uncertainty surrounding the implementation of LEC-CMRS porting is resolved, however, the obligations of LECs are unclear, and subject to the erroneous interpretation that they are obligated to implement a version of number portability is not required by the Act or applicable FCC rules. CMRS providers' requests appear to seek wireline-to-wireless number porting without any conditions regarding the geographic limitations for number utilization. For mobile telephones, this constitutes, by definition, "geographic location portability," an obligation imposed by neither the Act nor applicable FCC's Rules.

Section 251(b)(2) of the Act requires all LECs to "provide to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission."²⁴ The Act defines number portability as "the ability of users of telecommunication services to retain, *at the same location*, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another."²⁵ In promulgating its number portability rules, the Commission cited this definition and determined that the Act requires *service provider portability but not geographic location portability*.²⁶ The FCC defined "service provider portability" as "the ability of end users to

²⁴ 47 U.S.C. §251(b)(2).

²⁵ 47 U.S.C. §153(30) (emphasis added).

²⁶ See *In the Matter of Telephone Number Portability: First Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 8352, 8447 (1996) ("Number Portability Decision").

retain the same telephone numbers (that is, the same NPA and NXX codes and the same line numbers) when changing from one service provider to another.”²⁷ In contrast, “geographic location portability” is “the ability of end users to retain the same telephone numbers *when moving* from one location to another, either within the area served by the same central office or between areas served by central offices.”²⁸

In its *Number Portability Decision*, the FCC determined that mandating carriers to implement location portability was not in the public interest,²⁹ but permitted state regulatory bodies to make the determination on a state-by-state basis.³⁰ As part of this decision, the FCC noted its concerns regarding the significant implementation issues arising from geographic location portability. Specifically, the Commission found that, among other reasons, imposing location portability at this time would cause consumer confusion by the loss of the geographic identity of the telephone number. As a result, customers would not know whether they were making a call to a nearby location or to a distant location, and may not know whether the call

²⁷ *In the Matter of Telephone Number Portability, Notice of Proposed Rulemaking*, 10 FCC Rcd 12350, 12355 (1995).

²⁸ *Id.* at 12356 (emphasis added).

²⁹ *Number Portability Decision*, 11 FCC Rcd at 8449. The FCC also determined that it may decide to mandate implementation of geographic location portability in the future “if it would be in the public interest” and noted that carriers may provide geographic location portability “consistent with this Order” if they so choose. *Id.* at 8447. The FCC has not done so and the Company is not aware of any LEC that has purposefully implemented ubiquitous geographic location portability.

³⁰ *Id.* at 8449. The Company is not aware of any Commission decision requiring geographic location portability nor of any proceeding that would have developed the necessary facts to provide a sustainable public policy determination that geographic location portability should be required.

would be subjected to toll charges.³¹ With the change in location, LECs' service offerings, switching, and routing of originating calls to the ported number would need to be changed.³² The FCC also noted that commenting parties observed that location portability would create unnecessary and burdensome costs on carriers and on directory, operator, and emergency services providers.³³

If a number is ported from a LEC to a CMRS provider that provides mobile telephone service in areas outside of the LEC service territory through its own system and/or through roaming agreements, the ported telephone number can be used beyond the LEC service area. For the vast majority of CMRS providers and mobile users, the number will be used for service at locations well beyond the original rate center.³⁴ By definition, therefore, this type of porting allows use beyond "the same location,"³⁵ and, instead, permits the mobile user to make and receive calls "when moving from one location to another," specifically constituting geographic

³¹ *Id.* at 8448.

³² *See id.* at 8449 (citing the New York Department of Public Service's observation that the only way to avoid the customer confusion which would result from location portability was to limit location portability to a rate center).

³³ *Id.* at 8444-8445.

³⁴ The only exception may be where a CMRS carrier operates as a LEC and confines its mobile user to the specific rate center area. Most CMRS carriers do not currently provide such service. As examples of CMRS carriers that may operate in such a manner, *see In the Matter of Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services: Sixth Report*, FCC 01-192 at 33-34 (rel. July 17, 2001) (FCC referencing CMRS providers who are offering service plans "designed to compete directly with wireline local telephone service" and providing examples of wireless carriers such as Leap that do not permit subscribers to roam).

³⁵ *See* 47 U.S.C. §153(30).

location portability.³⁶

Grant of the extension request would allow rational public policy decision-making without a “rush-to-judgment” based on the impending WLNP Deadline. The Commission could ensure that number portability is implemented in a manner consistent with known and documented procedures pursuant to an agreement that clearly defines the rights and responsibilities of the two parties involved – the Company and the CMRS provider. Ultimately, however, since the costs associated with all of the uncertainty associated with this issue would be recovered through the rates charged to customers, the public interest would be served by avoiding such recovery until and unless and to the extent required.

C. The Criteria For Obtaining Waiver of Number Portability Requirements are Satisfied

The Company respectfully submits that each of the four criteria necessary for obtaining extension of the WLNP Deadline is met. First, as demonstrated in herein, the Company is unable to meet the deadline due to the extensive upgrades which must be incurred in order for it become number portable-capable. According to its switch vendor, it will take a minimum of six months and approximately \$50,000 to make the necessary upgrades. In addition to the upgrades, unresolved implementation problems and the necessity of negotiating an interconnection agreement could not be accomplished by the WLNP Deadline.

Second, the Company has made diligent efforts to meet the implementation schedule prior to requesting an extension of time. As stated in Exhibit 1, upon receipt of the requests, the

³⁶ *Number Portability Decision*, 11 FCC Rcd at 8443.

Company, upon advice of counsel, challenged their validity. One CMRS provider, Sprint PCS, has yet to respond to the challenge. The other, Verizon Wireless, has provided a generic response that does not address the issues raised in the challenge. The Company also contacted Nortel to determine cost estimates and length of time it would take to become compliant. Before placing any orders with Nortel, however, the Company prudently has chosen to obtain verification of the validity of the requests, especially given the significant effects that the cost of implementation would have on the small subscriber base and the little, if any benefits that the public would receive.

Third, the Company provides a list of the CLLI codes of the switches for which the extension is requested: OKGVTNXADS0, OKGVTNXARS5, WMLDTNXARS5, BTHPTNXARS5, GNGVTNXARS5, LFYTTNXADS1, PLSHTNXARS5, RBSPTNXARS5, DFTDTNXARS5, HLDLTNXARS5.

Fourth, the Company states that it plans to complete deployment in the affected switches within one year following the clarification of its obligations and confirmation that the requests are valid.

Fifth, the Company will provide the Commission with quarterly progress reports during this temporary extension period informing the Commission as to the purchase and installation of the upgrades, progress towards negotiation of interconnection arrangements and other arrangements necessary for successful implementation of intermodal number portability.

III. Conclusion

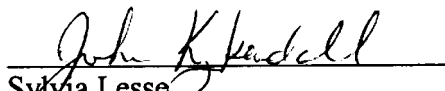
For the reasons demonstrated herein, prompt action on this request will not only serve the public interest, but can also ensure that the interest of the rural end users served by the Company are not adversely affected by implementation of number portability. Moreover, the Commission can ensure prudent utilization of scarce resources pending the Commission's provision of the necessary guidance regarding issues pertaining to intermodal number portability.

Accordingly, the Company respectfully request that the Commission grant this Petition.

Respectfully submitted,

North Central Telephone Cooperative, Inc.

By:


Sylvia Lesse
John Kuykendall
Its Attorneys

Kraskin, Lesse & Cosson, LLC
2120 L Street, NW, Suite 520
Washington, DC 20037
(202) 296-8890

September 24, 2003

North Central Telephone Cooperative, Inc. ("NCTC") operates 16,532 access lines in the State of Tennessee. NCTC is a rural telephone company as that term is defined under the Communications Act of 1934, as amended because it provides telephone exchange service, including exchange access, to fewer than 50,000 access lines and serves a study area of fewer than 100,000 access lines. In addition, its access lines count is less than 2% of Federal Communications Commission ("FCC") reported local telephone lines in service nationwide as of December 2002. The FCC's reported number was approximately 188 million, and NCTC's 16,532 access lines is far below the 2% threshold of 3.76 million access lines.

NCTC provides service to the following counties in Tennessee: Macon, Portions of Trousdale, Portions of Sumner, Portions of Clay, and Portions of Smith. Our service area is predominantly rural, with the largest town having a population of approximately 3,885 in Lafayette, TN. NCTC has 10 rate centers and utilizes the 633, 644, 655, 666, 677, 688, 699, 774, 841, and 888 codes deployed in its host/remote switching configurations. Only Sumner County is within the largest 100 metropolitan statistical areas; however, NCTC serves only the sparsely populated areas of this county.

NCTC's service area is predominantly rural. A large portion of this service territory encompasses areas that are sparsely populated. The total population of the five counties within our service area, based on recent statistics, is approximately 16,530. Thus, the counties that NCTC operates within are only 2.9% of the population of the most populous county in the state, Davidson County, which contains the Nashville metropolitan area. From a business demographic perspective, employment in NCTC's service area is driven primarily by agriculture and light industry.

A. NCTC's Technical Hurdles

NCTC has deployed a Nortel switch. The company estimates that it would cost approximately \$50,000 to deploy the necessary software upgrades in order to ensure a seamless transition to a number porting environment and that it would take approximately six months from the initial order date to install and test the required upgrades. Even assuming that installation of number portability capability is achieved, that installation only partially resolves the issue. Unresolved implementation problems render the provision of local number portability unduly economically burdensome and technically infeasible. For example, NCTC does not know how routing, rating and recording of the end user traffic related to any number porting will be achieved, let alone the full extent of the "back office" functions that will be required (including data storage and processing) to implement such a requirement properly.

B. The Requests for Porting Numbers to a Wireless Provider

NCTC received the attached requests to implement wireline to wireless portability by November 24, 2003. Also attached is the response to these requests authorized by NCTC. To date, Sprint has not responded to this request, and Verizon has provided non-responsive answers to these challenges. As indicated, the validity of the requests received from Verizon Wireless and Sprint PCS were challenged for the following reasons:

- (1) The request seeks to obligate us to port our numbers to a wireless carrier that, in turn, affords that carrier the capability to allow its mobile subscriber to use the number outside the boundaries of our original rate center. In our view, that result would be considered “location” or “geographic” portability, which we understand to be an obligation that the FCC has already determined is not required by statute and would be contrary to the public interest. Therefore, NCTC requested Verizon and Sprint to provide any additional facts to demonstrate that their respective requests are not for geographic location portability.
- (2) The request failed to demonstrate compliance with the FCC Rules that number portability is required only if requested by “another telecommunications carrier in areas in which that telecommunications carrier is operating or plans to operate.”¹ In its response, NCTC sought assurance that the CMRS providers have viable service in NCTC’s service territory or plan to provide such service. Furthermore, the Company noted that there is no local interconnection in place between it and the CMRS provider, demonstrating the absence of the CMRS provider’s local presence and any indication of its “plans to operate” within the area.

¹ 47 C.F.R. §52.23(c).



May 28, 2003

North Central Tel Coop
PO Box 70
Lafayette, TN 37083



Attn: F. Rowland,

Consistent with the rules of the Federal Communications Commission ("FCC"), on November 24, 2003, Verizon Wireless will begin competitive porting by offering customers local number portability ("LNP").²³³ The FCC sought to simplify the task of identifying the switches in each MSA in which number portability is deployed and to facilitate competitive entry.²³⁴ The FCC's rules require local exchange carriers to make available, upon request by any interested party, a list of their switches for which provisioning of number portability has been requested (and therefore provided) and a list of their switches for which provisioning of number portability has not been requested.²³⁵ Verizon Wireless requires only a list of switches and NPA-NXX codes for which provisioning of LNP has not been requested.

Verizon Wireless has simplified this request by attaching a form containing a list of switches and codes for your review. This list was derived by using the LERG and comparing it to Verizon Wireless's licensed service areas. The list identifies the switch CLLI and NPA-NXX codes that Verizon Wireless believes are not yet LNP capable. Please review and update the attached form, making any necessary changes or additions to the list regarding switches and codes that have not been marked portable. Please indicate the date by which the switch and codes will be LNP capable.²³⁶ Any comments can be made in the column provided on the form

Verizon Wireless requests that you review, update and return the attached form to the undersigned contact within 10 days of receipt. Please call the undersigned with any questions or concerns.

Linda Godfrey
Verizon Wireless
Interconnection, Numbering and Mandates

925-279-6570

Enclosures

²³³ See 47 C.F.R. § 52.31.

²³⁴ Local Number Portability, *First Memorandum Opinion and order on Reconsideration*, 12 FCC Rcd. 7236, ¶¶59-66 (1997).

²³⁵ *Id.* at ¶64; 47 C.F.R. § 52.23(b)(2)(iii).

²³⁶ The timeframes for conversion to LNP of any additional switches are governed by the FCC's rules and range from 30 days to 180 days, depending upon the status of the switches (*i.e.*, equipped remote, hardware capable, capable switches requiring hardware, and non-capable). 47 C.F.R. § 52.23 (b)(2)(iv)(A-D).

Bonafide Request Form (BFR)

Purpose:

The purpose of this letter is to request the deployment of long-term Local Number Portability as defined by the FCC. Specifically, this form requests that ALL codes serving the Metropolitan Statistical Areas be opened for portability in the LERG and the NPAC and ALL switches serving these areas are LNP capable.

Note: MSAs refers to the identified U.S. Census Bureau MSAs for 2000. These may differ from the MSAs as separately defined by the wireless or wireline industries. In those instances where no MSA has been identified, please reference Rate Center to ensure switches and NPA-NXXs serving those areas are opened for porting.

TO (RECIPIENT):

If LERG contact info is incorrect, please change below.

Company Name: _____

Contact Name: _____

Contact's Address: _____

Contact's

Email: _____

Contact's Fax: _____

Contact's Phone: _____

FROM (REQUESTOR):

Company Name: Cellco Partnership d/b/a

Verizon Wireless

Contact Name: Linda Godfrey

Contact's Address: 2785 Mitchell Drive
Walnut Creek, CA 94598
Building 7-1, 7111G

Contact's Email:
Linda.Godfrey@Verizonwireless.com

Contact's Fax: 925-279-6621

Contact's Phone: 925-279-6570

Timing:

Date of Request: May 19, 2003

Receipt Confirmation
Due By: May 29, 2003 (*Due no later than 10 days after the date of the request.*)

Effective Date: November 24, 2003 or May 24, 2004 pursuant to the FCC rules

**Wireline Bonafide Request form (BFR) for Local Number Portability North Central
Telephone Co-Op Nonportable NPA-NXXs and CLLIs**

COC TYPE	ST	RATE CNTR	PORTABLE	NPA	NXX	Date NPA-NXX marked Portable	Comments	SOF 38-LNP	SWITCH	Date Portable	Comments
EOC	TN	WESTMORELD	N	615	644			-	WMLDTNXARS5		
EOC	TN	BETHPAGE	N	615	841			-	BTHPTNXARS5		
EOC	TN	OAK GROVE	N	615	888			X	OKGVTNXARS5		
EOC	TN	OAK GROVE	N	615	362			-	OKGVTNXADS0		
EOC	TN	GREENGROVE	N	615	655			-	GNGVTNXARS5		
EOC	TN	LAFAYETTE	N	615	666			-	LFYTTNXADS1		
EOC	TN	LAFAYETTE	N	615	666			-	LFYTTNXADS1		
EOC	TN	PLEASASHAD	N	615	677			-	PLSHTNXARS5		
EOC	TN	LAFAYETTE	N	615	688			-	LFYTTNXADS1		
EOC	TN	LAFAYETTE	N	615	688			-	LFYTTNXADS1		
EOC	TN	RDBOLNGSPG	N	615	699			-	RBSPTNXARS5		
EOC	TN	DEFEATED	N	615	774			-	DFTDTNXARS5		
EOC	TN	HILLSDALE	N	615	633			-	HLDLTNXARS5		

KRASKIN, LESSE & COSSON, LLC
ATTORNEYS AT LAW
TELECOMMUNICATIONS MANAGEMENT CONSULTANTS

2120 L Street, N.W., Suite 520
Washington, D.C. 20037

Telephone (202) 296-8890
Telecopier (202) 296-8893

July 23, 2003

VIA E-MAIL & OVERNIGHT DELIVERY

Linda Godfrey
Interconnection, Numbering and Mandates
Verizon Wireless
2785 Mitchell Drive
Walnut Creek, CA 94598

Dear Ms. Godfrey:

Our firm represents several local exchange carriers that have received correspondence from Verizon Wireless regarding number portability.¹ Having analyzed the letters and accompanying forms (collectively, the Verizon Wireless mailings") sent to these companies, we question whether the mailings constitute a valid request for number portability. Moreover, even if the mailings were sufficient, the Verizon Wireless correspondence does not request service provider portability that would enable customers of these LECs to retain their existing telephone numbers "at the same location" as the Act and FCC Rules require.²

The mailings seek only switch information rather than request the implementation of number portability.³ The process of responding to the information request has been "simplified" by Verizon Wireless by allowing carriers to update the attached form, which has been provided for this purpose. This attachment is comprised of a generic form with no carrier or market information indicated and a spreadsheet containing the switch information referenced in the letter. Accordingly, the mailing fails to "specifically request portability" and "identify the discrete geographic area" as required by FCC Rules.⁴ Furthermore, although the generic form

¹ A list of these companies is attached.

² See 47 U.S.C. § 153(30); 47 C.F.R. § 52.21(k).

³ According to the letter, the purpose of the mailing is pursuant to a specific FCC Rule which requires carriers to provide, upon request, "a list of their switches for which provisioning of number portability has been requested (and therefore provided)." The carriers on the attached list have either responded to this information request directly or we are responding on their behalf.

⁴ See *In the Matter of Numbering Resource Optimization; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Telephone Number Portability*:

specifies the date of the request as May 19, 2003, many of the letters are dated May 28, 2003 with postmark dates well into the month of June. Accordingly, if the mailing was intended to constitute a request for a LEC, which currently is not number portable-capable, to implement number portability by November 24, 2003, the request, in these instances, was not timely made.⁵

The mailing fails to indicate whether Verizon Wireless provides service within the companies' respective LEC service areas. The rules specify that number portability is required only if requested by "another telecommunications carrier in areas in which that telecommunications carrier is operating or plans to operate."⁶ Furthermore, for most of the companies, there is no local interconnection in place between Verizon Wireless and the LEC, demonstrating the absence of Verizon Wireless' local presence and any indication of its "plans to operate" within the area.

The Act and the FCC have defined the obligation of a LEC to provide number portability that enables the "users of telecommunication services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another."⁷ If you have facts to indicate that Verizon Wireless plans to ensure that the customer retains his/her telephone number "at the same location" please provide us with those facts and we will reevaluate our analysis of the Verizon Wireless request on the basis of these facts.

While we and our clients recognize that pursuant to Section 252 of the Act, carriers are free to "negotiate and enter into a binding agreement with the requesting telecommunications carrier or carriers without regard to the standards set forth in subsections (b) and (c) of Section 251,"⁸ our clients at this time has no need or desire to negotiate an agreement that goes beyond

Fourth Report and Order in CC Docket No. 99-200 and CC Docket No. 95-116, and Fourth Further Notice of Proposed Rulemaking in CC Docket No. 99-200, CC Docket Nos. 99-200, 96-98, 95-116 (rel. June 18, 2003) at para. 10 ("Requesting telecommunications carriers must specifically request portability, identify the discrete geographic area covered by the request, and provide a tentative date by which the carrier expects to utilize number portability to port prospective customers").

⁵ See 47 C.F.R. § 52.23(b)(2)(iv).

⁶ 47 C.F.R. § 52.23(c).

⁷ 47 U.S.C. § 153(30) (emphasis supplied); 47 C.F.R. § 52.21(k) (emphasis supplied). The FCC has distinguished this "service provider portability" from "location portability," a much different form of portability that the FCC has determined is not required by statute. "Location portability" is defined as "the ability of users of telecommunications services to retain existing telecommunications numbers without impairment of quality, reliability, or convenience when moving from one physical location to another." 47 C.F.R. § 52.21(i) (emphasis supplied).

⁸ 47 U.S.C. § 252(a)(1).

Ms. Linda Godfrey

July 23, 2003

Page 3

the standards the FCC has set forth pursuant to Section 251. As noted, the geographic portability that would result from the Verizon Wireless request has not been required by the FCC under Section 251.

Again, we would be pleased to review any additional facts Verizon Wireless may offer to demonstrate that its request is not for geographic number portability.

Sincerely,

Kraskin, Lesse & Cosson, LLC

By: 

Attachment

ATTACHMENT

**List of Companies Represented by Kraskin, Lesse & Cosson, LLC in Matters
Pertaining to Correspondence From Verizon Wireless Regarding Number Portability**

North Central Telephone Cooperative, Inc



Sprint PCS

6580 Sprint Parkway
Mailstop: KSOPHW0516-5B360
Overland Park, KS 66251
(913) 794-9486
fromig01@sprintspectrum.com



May 16, 2003

To Whom It May Concern:

Enclosed is the Bonafide Request Form (BFR) as required by the FCC mandate (CC Docket 95-116) to request deployment of long term Local Number Portability. CMRS providers are required to provide LNP by November 24, 2003. This BFR is being sent in anticipation of that date. Please note the effective date requested reflects this requirement.

Please feel free to contact me at the numbers and email address provided above. Alternatively, you may contact Jeff Adrian at phone number (407) 622-4170 or at email address: jadna01@sprintspectrum.com if you need assistance.

Sincerely,

Fawn Romig
Industry Compliance and Operational Network Support
Numbering Solutions

Enclosure

Bonafide Request Form (BFR)

Purpose: This form is used to request deployment of long-term Local Number Portability as defined in the FCC mandates (CC

Docket 95-116). Specifically, this form requests that ALL codes be opened for portability within the Metropolitan Statistical Area and wireline switch CLLI codes designated below. This form may be used for both wireless and wireline requests.

TO (RECIPIENT):

OCN: 0573
Company Name: NORTH CENTRAL TELEPHONE
COOPERATIVE, INC. - TN
Contact Name: F ROWLAND

Contact's Address:

PO BOX 70
LAFAYETTE TN 37083
Contact's Phone: 615-666-2151

FROM (REQUESTOR):

Company Name: Sprint PCS
Contact Name: Fawn Romig
Contact Name: Fawn Romig
Contact's Address: 6580 Sprint Parkway
Mailstop: KSOPHW0516-5B360
Overland Park, KS 66210
Contact's Email: fromig01@sprintspectrum.com
Contact's Fax: (913) 523-8333
Contact's Phone: (913) 794-9486

TIMING:

Date of Request: May 23, 2003
Receipt Confirmation Due By: June 9, 2003
Effective Date: November 24, 2003

Designated Wireline Switch CLLI Codes:

1st CLLI: OKGVTNXADS0
2nd CLLI: OKGVTNXARS5
3rd CLLI: WMLDTNXARS5
4th CLLI:
5th CLLI:
6th CLLI:

Designated Metropolitan Statistical Areas (MSAs):

Note: MSAs refer to the U.S. Census Bureau MSAs. These may differ from the MSAs as separately defined by the wireless or wireline industries.

MSA_NAME:

Nashville, TN

Actions Required of the Recipient:

1. Within 10 days of receipt, provide confirmation to the requestor that this form has been received.
2. For all currently released codes, and those to be released at any future time, within the designated U.S. Census Bureau MSAs and wireline switch CLLI codes (where applicable), open all for porting within the LERG.
3. For all currently released codes, and those to be released at any future time, within the designated U.S. Census Bureau MSAs and wireline switch CLLI codes (where applicable), open all for porting within the NPAC (Number Portability Administration Center).
4. Ensure that all switches handling codes within the designated MSAs are Local Number Portability capable.

Thursday, May 08, 2003

BFR Checklist Form v04 020204.doc

KRASKIN, LESSE & COSSON, LLC
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2120 L Street, N.W., Suite 520
Washington, D.C. 20037

Telephone (202) 296-8890
Telecopier (202) 296-8893

July 16, 2003

VIA E-MAIL & OVERNIGHT DELIVERY

Fawn Romig
Industry Compliance and Operational Network Support, *Numbering Solutions*
Sprint PCS
6580 Sprint Parkway
Mailstop: KSOPHW0516-5B360
Overland Park, Kansas 66210

Dear Ms. Romig:

In our letter dated June 9, 2003, and in subsequent e-mails and telephone conversations, we notified you of over seventy companies represented by this firm that have received correspondence from Sprint PCS regarding number portability.¹ Having analyzed the generic letter and accompanying form dated May 23, 2003 (collectively, the Sprint PCS "mailings") sent to these companies, we question whether the mailings constitute a valid request for number portability. Moreover, even if the mailings were sufficient, the Sprint PCS correspondence does not request service provider portability that would enable customers of these LECs to retain their existing telephone numbers "at the same location" as the Act and FCC Rules require.²

The geographic areas specified in the mailings are limited to Metropolitan Statistical Areas ("MSAs"). Twenty-eight of these companies, however, operate wholly outside of any MSA. Additionally, on forms sent to fourteen of the companies that serve within MSAs, no specific market was indicated.³ Accordingly, for these forty-two companies, the mailings fail to identify the "discrete geographic area" as required by the FCC.⁴

¹ An updated list of the companies that we represent in this matter is attached.

² See 47 U.S.C. § 153(30); 47 C.F.R. § 52.21(k).

³ The companies that operate wholly outside of any MSA and ones for which no specific market was indicated are specified with an asterisk on the attached list.

⁴ See *In the Matter of Numbering Resource Optimization; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Telephone Number Portability: Fourth Report and Order in CC Docket No. 99-200 and CC Docket No. 95-116, and Fourth Further Notice of Proposed Rulemaking in CC Docket No. 99-200*, CC Docket Nos. 99-200, 96-98, 95-116 (rel. June 18, 2003) at para. 10 ("Requesting telecommunications carriers must specifically request portability, identify the discrete geographic area covered by the request, and

Further, in at least two instances, the request was sent to the wrong company⁵ and in many instances the switch information contained on the forms is incorrect.⁶ For example, one company received a mailing that identifies the switches of the company's affiliate rather than the company's switches.⁷

The mailing fails to indicate whether Sprint PCS provides service within the companies' respective LEC service areas. The rules specify that number portability is required only if requested by "another telecommunications carrier in areas in which that telecommunications carrier is operating or plans to operate."⁸ Furthermore, for most of the companies, there is no local interconnection in place between Sprint PCS and the LEC, demonstrating the absence of Sprint PCS' local presence and any indication of its "plans to operate" within the area.

The Act and the FCC have defined the obligation of a LEC to provide number portability that enables the "users of telecommunication services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another."⁹ If you have facts to indicate that Sprint PCS plans to ensure that the customer retains his/her telephone number "at the same

provide a tentative date by which the carrier expects to utilize number portability to port prospective customers").

⁵ Hancock Telephone Company located in New York received a mailing directed to Hancock Rural Telephone Cooperative located in Indiana and ComSouth Telecommunications, Inc. received a mailing directed to Hawkinsville Telephone Company, a company that no longer exists.

⁶ The FCC's orders and rules require local exchange carriers to implement number portability only "in switches for which another carrier has made a specific request" *See, e.g., In the Matter of Telephone Number Portability: First Memorandum Opinion and Order on Reconsideration*, 12 FCC Rcd 7236, 7273 (1997); 47 C.F.R. § 52.23(c).

⁷ Although the correspondence is addressed to Horry Telephone Cooperative, Inc., the form specifies switches which belong to an affiliated, but separate company, HTC Communications, Inc.

⁸ 47 C.F.R. § 52.23(c).

⁹ 47 U.S.C. § 153(30) (emphasis supplied); 47 C.F.R. § 52.21(k) (emphasis supplied). The FCC has distinguished this "service provider portability" from "location portability," a much different form of portability that the FCC has determined is not required by statute. "Location portability" is defined as "the ability of users of telecommunications services to retain existing telecommunications numbers without impairment of quality, reliability, or convenience when moving from one physical location to another." 47 C.F.R. § 52.21(i) (emphasis supplied).

Ms. Fawn Romig
July 16, 2003
Page 3

location" please provide us with those facts and we will reevaluate our analysis of the Sprint PCS request on the basis of these facts.

While we and our clients recognize that pursuant to Section 252 of the Act, carriers are free to "negotiate and enter into a binding agreement with the requesting telecommunications carrier or carriers without regard to the standards set forth in subsections (b) and (c) of Section 251,"¹⁰ our clients at this time has no need or desire to negotiate an agreement that goes beyond the standards the FCC has set forth pursuant to Section 251. As noted, the geographic portability that would result from the Sprint PCS request has not been required by the FCC under Section 251.

Again, we would be pleased to review any additional facts Sprint PCS may offer to demonstrate that its request is not for geographic number portability.

Sincerely,

Kraskin, Lesse & Cosson, LLC

By: 

¹⁰ 47 U.S.C. § 252(a)(1).

ATTACHMENT


**List of Companies Represented by Kraskin, Lesse & Cosson, LLC in Matters
Pertaining to Correspondence From Sprint PCS Regarding Number Portability**

North Central Telephone Cooperative, Inc - TN

DECLARATION OF F. THOMAS ROWLAND

I, F. Thomas Rowland, President and Chief Executive Officer of North Central Telephone Cooperative, Incorporated ("NCTC"), do hereby declare under penalties of perjury that I have read the foregoing "Petition for Waiver" and the attachment and that the information contained in both regarding NCTC is true and accurate to the best of my knowledge, information, and belief.

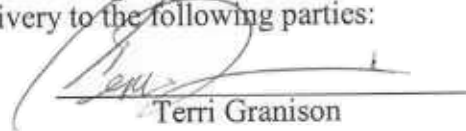
Date: 9/24/03

A handwritten signature in black ink, reading "F. Thomas Rowland". The signature is fluid and cursive, with a large loop at the end of the last name.

F. Thomas Rowland

CERTIFICATE OF SERVICE

I, Terri Granison, of Kraskin, Lesse & Cosson, LLC, 2120 L Street, NW, Suite 520, Washington, DC 20037, do hereby certify that a copy of the foregoing "Petition for Waiver" was served on this 24th day of September 2003, via hand delivery to the following parties:



Terri Granison

William Maher, Chief
Wireline Competition Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Cheryl Callahan, Assistant Chief
Telecommunications Access Policy Division
Wireline Competition Bureau
Federal Communications Commission
445 12th Street, SW

Eric Einhorn, Chief
Telecommunications Access Policy
Division
Wireline Competition Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Qualex International
445 12th Street, SW
Room CY-B402
Washington, DC 20554